

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

STAR AUTO SALES OF BAYSIDE, INC.
(d/b/a STAR TOYOTA OF BAYSIDE), STAR
AUTO SALES OF QUEENS, LLC (d/b/a STAR
SUBARU), STAR HYUNDAI LLC (d/b/a
STAR HYUNDAI), STAR NISSAN, INC. (d/b/a
STAR NISSAN), METRO CHRYSLER
PLYMOUTH INC. (d/b/a STAR CHRYSLER
JEEP DODGE), STAR AUTO SALES OF
QUEENS COUNTY LLC (d/b/a STAR FIAT)
and STAR AUTO SALES OF QUEENS
VILLAGE LLC (d/b/a STAR MITSUBISHI),
Plaintiffs,

-against-

VOYNOW, BAYARD, WHYTE AND COMPANY,
LLP, HUGH WHYTE, RANDALL FRANZEN AND
ROBERT SEIBEL,

Defendants.

Civil Action No.:
1:18-cv-05775 (ERK) (TAM)

**DECLARATION OF MAUREEN P.
FITZGERALD, ESQUIRE**

Maureen P. Fitzgerald, Esquire, pursuant to 28 U.S.C. § 1746 and Local Civil Rule 1.10 of the United States District Courts for the Eastern and Southern Districts of New York, declares as follows:

1. I am a member of the Law Firm of Marshall Dennehey, P.C., counsel of record for Defendants, Voynow, Bayard, Whyte and Company, LLP, Hugh Whyte, Randall Franzen, and Robert Siebel (hereinafter and collectively as “Defendants” or “Voynow”).
2. I submit this declaration in support of Voynow’s Motion for Summary Judgment, Statement of Material Facts and Memorandum of Law pursuant to Rule 56 of the Federal Rules of Civil Procedure.
3. Attached to this Declaration are Exhibits numbered 1 through 33 which are documents referenced in Voynow’s Statement of Undisputed Material Facts or Memorandum of Law:

Exhibit 1 - Plaintiffs' Complaint.

Exhibit 2 - Excerpts from the August 15, 2022 deposition of Michael Koufakis.

Exhibit 3 - Excerpts from the September 23, 2022 deposition of John Koufakis, Jr.

Exhibit 4 - Excerpts from the September 13, 2022 deposition of Steven Koufakis.

Exhibit 5 - Excerpts from the February 28, 2023 deposition of Jacqueline Cutillo.

Exhibit 6 - Table of Contents from the Reynolds & Reynolds Accounting User Manual produced in discovery and bates stamped: P002149-P002169.

Exhibit 7 - Excerpts from the January 31, 2023 deposition of Hugh Whyte.

Exhibit 8 - Excerpts from the February 8, 2023 deposition of Robert Seibel.

Exhibit 9 - Excerpts from the February 15, 2023 deposition of Randall Franzen.

Exhibit 10 - Excerpts from the February 13, 2023 deposition of Robert Kirkhope.

Exhibit 11 - Excerpts from the February 3, 2023 deposition of Plaintiff Star Auto Sales of Queens, LLC d/b/a Star Subaru, Inc.

Exhibit 12 - Excerpts from the February 1, 2023 deposition of Plaintiff Star Nissan, Inc. d/b/a Star Nissan.

Exhibit 13 - Excerpts from the February 3, 2023 deposition of Plaintiff Metro Chrysler Plymouth, Inc. d/b/a Star Chrysler Jeep Dodge.

Exhibit 14 - Excerpts from the February 3, 2023 deposition of Plaintiff Star Hyundai, LLC d/b/a Star Hyundai.

Exhibit 15 - Excerpts from the February 2, 2023 deposition of Plaintiff Star Auto Sales of Bayside, Inc. d/b/a Star Toyota.

Exhibit 16 - Excerpts from the June 22, 2023 deposition of Defendant Voynow, Bayard, Whyte and Company, LLP.

Exhibit 17 - Excerpts from the November 2, 2022 deposition of Vincent Bucolo.

Exhibit 18 - Excerpts from the October 3, 2022 deposition of David Lombardo.

Exhibit 19 - Cover letters enclosing Annual Corporate Tax Returns issued by Voynow from 2012-2017 and Bates stamped as STAR 00000840, 00000954, 00001158; Voynow 019212, 012324, 020031, 020798, 021247, 021747, 022026, 022242, 027601, 027665, 027801, 027999, 028139, 028216, 028786, 029026, 029148, 029365, 029585, 030245, 032021, 032488, 032862, 032663, 033257, 033367, 034061, 034213, 034376.

Exhibit 20 - Letterhead and server copies of Voynow Annual Engagement letters issued by Voynow in 2008 and 2009 and Bates stamped Voynow 035693-035715; 028317-028340; 019118- 019121.

Exhibit 21 – Letterhead and server copies of Voynow Annual Engagement letters issued by Voynow in 2010 through 2016 and Bates stamped as Voynow 035716-035614; 019122-019143; 024976-024984; 024965-024975; 010906-010917.

Exhibit 22 - Revised Exhibit A to Plaintiffs' Amended Responses and Objections to Defendants' Second Set of Interrogatories dated March 17, 2023.

Exhibit 23 - Criminal Complaints filed by the People of the State of New York against Douglas Filardo, Carmen Jones, Despina Theocharis and Vivian Karouzakis.

Exhibit 24 - Docket in the matter of *The People and the State of New York v. Despina Theocharis*, Case No. IND 71553-23/001.

Exhibit 25 – Excerpts of Voynow bills issued to Plaintiff Star Auto Sales of Queens, LLC d/b/a Star Subaru from 2011 through July 31, 2017, Bates stamped as Voynow024383, 024380, 024372, 024370, 024362, 024346, 024344, 024342, 024338, 024330, 024326, 024317, 024314, 024310 and 024308.

Exhibit 26 – Unsigned Engagement letters issued by Rosenfield & Company on January 31, 2018 and January 21, 2019, Bates stamped as Rosenfield000551-Rosenfield00558.

Exhibit 27 - Plaintiffs' Complaint against Rosenfield & Company, PLLC, in the matter of *Star Auto Sales of Bayside, et al v. Rosenfield & Company, PLLC*, Supreme Court of the State of New York, County of Queens, Index No. 710980-2023.

Exhibit 28 - Plaintiffs' Third-Party Complaint against Rosenfield & Company, PLLC, in the matter of *Rosenfield and Company, PLLC v. Trachtenberg, Rhodes & Friedberg, LLP, et al.*, Civil Action No. 1:21-CV-03858, United States District Court for the Southern District of New York.

Exhibit 29 - Plaintiffs' Responses and Objections to Defendants' First Set of Interrogatories.

Exhibit 30 - Defendants' First Request for Production of Documents and Plaintiffs' Responses and Objections.

Exhibit 31 – Sample Voynow invoice re special accounting service bates stamped as VOYNOW024533.

Exhibit 32 – Excerpts from October 18, 2022 Deposition of Dave Kumor.

Exhibit 33 – Excerpts from March 22, 2022 Deposition of Shawn McCormack.



MAUREEN P. FITZGERALD, ESQUIRE

Dated: February 12, 2024

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